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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 SHAWN FRANCIS,

11 Plaintiff,

12 v.

13 STEVEN HAMMOND et al.,

14 Defendants.

CASE NO. C12-6023 RBL-JRC

ORDER DENYING PLAINTIFF'S
MOTION TO FILE AN AMENDED
COMPLAINT WITHOUT
PREJUDICE

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16 The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States
17 Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §
18 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

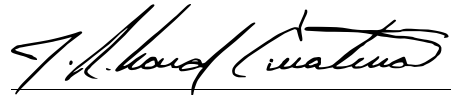
19 Plaintiff asks the Court for leave to file an amended complaint that adds an additional
20 plaintiff and also adds negligence claims (ECF No. 37). Defendants do not oppose the addition
21 of plaintiff's negligence claims, however, defendants do oppose addition of a new plaintiff with
22 different medical issues and claims (ECF No. 40).

23 While Fed. R. Civ. P. 15(a)(2) states that leave to amend should be freely given, the court
24 must consider prejudice to the opposing party. *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183,

1 186 (9th Cir. 1987). Addition of a new plaintiff with different medical claims would mean
2 discovery would start over. Defendants would be required to begin discovery anew to address
3 the claims of this additional plaintiff. The Court denies plaintiff's motion.

4 Defendants have stated that they do not oppose plaintiff's addition of negligence claims
5 (ECF No. 40). Local Rule 15 requires a party seeking to amend the complaint to provide a copy
6 of the proposed amended complaint. The Court does not have a proposed amended complaint
7 before it that only adds negligence claims to plaintiff's case. The Court denies plaintiff's current
8 motion to add additional claims without prejudice so that plaintiff can submit a new motion and
9 proposed amended complaint that is consistent with this order.

10 Dated this 8th day of January, 2014.

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12 J. Richard Creatura
13 United States Magistrate Judge
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